

**ENTERED**

October 20, 2015

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

SERENA HOWELL,

Plaintiff,

VS.

BNSF RAILWAY COMPANY,

Defendant.

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CIVIL ACTION NO. 3:13-CV-421

**ORDER ADOPTING MAGISTRATE'S  
MEMORANDUM AND RECOMMENDATION**

Pending before the Court are the Objections filed by Plaintiff, Serena Howell, to the Report and Recommendations of United States Magistrate Judge John R. Froeschner. (Dkt. 32). Pending before Judge Froeschner were the Defendant's Motion to Dismiss Hours of Service Claims Judgment (Dkt. 29), which Judge Froeschner recommended be granted and Plaintiff's hour of service claims be dismissed, with prejudice. Plaintiff filed Objections on February 13, 2014. (Dkt. 33). The Court held a hearing on Plaintiff's Objections on September 22, 2015.

In accordance with 28 U.S.C. § 636(b)(1), this Court is required to "make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." In this regard, the Court is permitted to "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*; *see also* FED. R. CIV. P. 72(b)(3). The Court need not, however, consider objections that are conclusive, general

in nature or frivolous. *See Battle v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. Unit B 1982) (*en banc*) (overruled on other grounds); *Mosley v. Quarterman*, 306 F. App'x 40, 42 n. 2 (5th Cir. 2008).


Based on the pleadings, the record and the applicable law, the Court finds that Judge Froeschner's Report and Recommendation is well-grounded in law and in fact.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

- (1) Judge Froeschner's Report and Recommendation is **APPROVED AND ADOPTED** in its entirety as the holding of the Court; and
- (2) Plaintiff's Objections to Judge Froeschner's Report and Recommendation are **OVERRULED**.

It is so **ORDERED**.

**SIGNED and ENTERED** this 20<sup>th</sup> day of October, 2015.

  
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**GEORGE C. HANKS, JR.**  
**UNITED STATES DISTRICT JUDGE**